

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Service Rules for Advanced Wireless Services)	WT Docket No. 04-356
in the 1915-1920 MHz, 1995-2000 MHz,)	
2020-2025 MHz and 2175-2180 MHz Bands)	
)	
Service Rules for Advanced Wireless Services)	WT Docket No. 02-353
in the 1.7 GHz and 2.1 GHz Bands)	

COMMENTS OF THE PCIA MICROWAVE CLEARINGHOUSE

The PCIA Microwave Clearinghouse (“MWCH”), by its attorneys, herewith files its comments on the Notice of Proposed Rule Making in the above-captioned proceeding.¹ As discussed below, the MWCH is the FCC-designated clearinghouse for cost-sharing administration in the 1.9 GHz broadband Personal Communications Service (“PCS”) bands. Given the potential for cost-sharing issues to arise in the three bands contemplated in the *Notice*, the MWCH is submitting these comments to report on the success of the clearinghouse mechanism in the 1.9 GHz band and provide some real world feedback on ways in which cost-sharing might be improved if used in the context of Advanced Wireless Services (“AWS”) allocations or other bands. The MWCH believes that the use of a third-party clearinghouse mechanism has been extraordinarily successful for broadband PCS and would serve as a useful model for future band clearing activities.

The creation of the MWCH was an innovative industry and agency response to a novel spectrum management problem—the need to distribute the costs of relocating incumbent

¹ Service Rules for Advanced Wireless Services in the 1915-1920 MHz, 1995-2000 MHz, 2020-2025 MHz and 2175-2180 MHz Bands, WT Docket No. 04-356; Service Rules for Advanced Wireless Services in the 1.7 GHz and 2.1 GHz Bands, WT Docket No. 02-353 (rel. Sept. 24, 2004) (“*Notice*”).

licensees in a repurposed spectrum band among those new licensees that benefit from the relocation in a manner that is fair and administratively simple. Indeed, because new entrants initiated operations at different times, and because the overlay of market-area licensed broadband PCS did not match the existing point-to-point usage of the 1.9 GHz band either with respect to spectrum channelization or geographic area of operation, the potential cost-sharing and reimbursement scenarios were exceedingly complex. To address cost-sharing in a manner that was equitable and administratively simple, a third party clearinghouse was created to be the repository of relocation and new licensee use data and to cross-correlate such data, based on specific geographic and frequency criteria, to generate notifications of cost-sharing among licensees and relocators.

Given the monumental task of identifying cost-sharing obligations among new licensees and relocators, the MWCH has been an unqualified success. Since its inception, the MWCH has registered a total of 3,556 relocated incumbent microwave links. In addition, the Clearinghouse has received Prior Coordination Notice (“PCN”) data from licensees for a total of 510,326 broadband PCS base stations. Since operation began, the MWCH has identified 12,983 cost-sharing obligations. In dollar figures, the total relocation costs registered with the MWCH have topped \$700 million, and over \$200 million has changed hands due to cost-sharing opportunities identified by the MWCH. One measure of the success of the clearinghouse concept is that, out of the tens of thousands of reimbursement requests involving hundreds of millions of dollars, only a handful of cost-sharing disputes have arisen, and even fewer have required FCC intervention. In some respects, the greatest measure of the MWCH’s success is that it has quietly performed its obligations outside of the regulatory limelight.

There have been several keys to the success of the MWCH. First, the MWCH was created pursuant to policies of transparency and openness. The majority of the substantive technical work of the MWCH, in fact, is conducted through the MWCH's Working Group, which permits participation by all interested parties. Moreover, the MWCH policies relating to specific cost-sharing scenarios and dispute resolution, among other things, are readily available to all via the PCIA website. Second, the business of the MWCH has been facilitated by the willingness of industry participants to conduct their affairs with the clearinghouse, to date, on a good faith basis. The atmosphere of cooperation and willingness to negotiate disputes, for example, has permitted the MWCH to function without excessive delays in reimbursement to licensees and without the imposition of onerous transaction costs. Finally, and perhaps most importantly, the MWCH's success has been attributable to reimbursement policies that impose clear liability based on objective geographic and frequency band criteria. Through the use of the "proximity threshold test," a bright line standard for determining benefit, and applying cost-sharing to co-channel licensees only, the MWCH has avoided becoming embroiled in the extensive engineering debates that would have occurred if, for example, the TSB-10 interference criteria had been employed as a trigger criteria.

While MWCH believes that the clearinghouse concept has been a vast success overall, there are a few minor respects in which the rules governing similar entities in the future might be modified. First, the FCC should establish a rule that requires licensing data to be filed by all entities. In some cases, the MWCH has had difficulty getting certain licensees to file PCN data because the licensees have conducted their own (or contracted for third party) interference analyses that indicate no PCN filings are required. Because such analyses are often wrong, a rule requiring all licensees to file site data would be beneficial. Second, while the overwhelming

majority of licensees and relocators have acted with the utmost good faith in cost-sharing matters, there are signs that, as the sunset date approaches, some licensees may perceive benefits in delaying paying their obligations by filing frivolous protests. While the MWCH has taken the position that it is a reasonable practice for relocators to assess interest charges on cost-sharing obligations, the Commission in the future might help matters by clarifying that licensees are required to act in good faith and that reasonable interest charges should be applied to cost sharing obligations. Third, because the MWCH has no real practical power over cost-sharing participants, its ability to broker compromises and settlements is limited. Under these circumstances, the MWCH suggests that any future clearinghouse regulations explicitly provide for an interface mechanism with the Commission, for resolving both disputes and rules interpretations on an expedited basis. As a final matter, the MWCH notes that its Working Group has been invaluable in providing pragmatic input on the operational efficacy of the cost-sharing rules. MWCH suggests that the FCC, in crafting future cost-sharing regulations, may wish to convene an informal public forum to discuss real world experiences with the existing cost-sharing requirements.

In sum, the MWCH believes that the clearinghouse concept has been extraordinarily successful for broadband PCS incumbent microwave relocation cost-sharing, and that this model should be considered positively for Advanced Wireless Services and other future band relocations. Given the large number of sharing participants, the complex reimbursement

scenarios, and the fact that the MWCH was a completely novel approach to spectrum management, the quiet success of the MWCH in identifying almost 13,000 reimbursement opportunities with a net value of over \$200 million is simply unprecedented.

Respectfully submitted,

PCIA MICROWAVE CLEARINGHOUSE

By: /s/
Eric W. DeSilva
WILEY REIN & FIELDING
1776 K St, NW
Washington, DC 20006
Tel. 202.719.3182

Its Attorney.

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